

**BEFORE  
MICHIGAN HOUSE OF REPRESENTATIVES  
COMMITTEE ON ENERGY AND TECHNOLOGY**

**Testimony  
Regarding adverse impact of proposed changes to Sec. 307(6)  
of the MTA on educational institutions**

**by**

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## INTRODUCTION

### 1. THERE IS NO PROBLEM TO FIX

The proposed revisions to Section 307 of the Michigan Telecommunications Act suggest there is some widespread problem with educational institutions unfairly competing with the private sector in commercial activity. That is a myth. There is no such widespread problem. In fact, a significant beneficiary of school's ability to sell excess capacity has been private sector businesses attempting to compete in new telecommunications markets. Obviously, however, entrenched monopoly providers want to delay competitive entries as long as possible, and preventing their access to existing infrastructure does that, since it always takes some time to build out new infrastructure.

### 2. Sec. 307(6) ALREADY CONTAINS THREE (4) SAFEGUARDS FROM UNFAIR COMPETITION WITH THE PRIVATE SECTOR

This debate was held and solved in 1995 when the existing Sec. 307(6) was enacted, and it was re-enacted in 2000. First, schools must sell **the capacity**, (i.e., not the facility itself). Second, the capacity must be **excess**. Third, no more than **25%** of the school's capacity may be sold. Fourth, **the price** may not be below the total service long run incremental cost of the local telephone company in the area. This means there can be no under cutting of the price which the local phone company could sell the capacity for if it were willing. These four safeguards make sure there is no unfair commercial competition with the private sector.

### 3. THE REVISIONS HURT SCHOOLS

While the proposed revisions will not remedy misperceived and nonexistent marketplace unfairness, it clearly will hurt schools. Those few schools which have been able to sell a limited amount of excess capacity not only would lose those revenues, but the cost of other telecommunication services will be higher because of the lack of competitive alternatives that the occasional sale of some temporarily excess capacity makes possible.

### 4. THE PRIVATE SECTOR AND COMPETITION HAS BENEFITED

In the limited number of sales of excess capacity which have occurred, they have been largely to other public or governmental entities or to the private sector itself. This is especially true in rural areas where competition may emerge more slowly and it is more costly to extend infrastructure. In nearly all cases it is the private sector that has sought out the school's excess capacity, not the other way around. Schools generally do not "market" excess capacity. The temporary purchase of some excess capacity until facilities can be built, accelerates the entry of competitive and lower-priced telecommunication services in rural markets. The loss of this option serves to further entrench existing high-cost monopolies. Thus, these proposed revisions are actually ant-competitive.

**5. PROHIBITING THE SALE OF EXCESS CAPACITY IS UNECONOMIC**

By definition, in the Act, schools can only sell **excess capacity**. It is far more economical to build capacity for a school's needs now and somewhat in the future. Thus, it is not uncommon to have, for a limited time, some excess capacity. If some entity can use this excess capacity, until the schools grow into it, what sense does it make to prohibit schools from making this excess capacity temporarily available and secure some badly needed revenues. That's just wasteful.

**6. SECTION 307(6) WAS INSERTED IN 1995 TO HELP SCHOOLS.**

In 1995, schools were being overwhelmed with technology mandates by the State which necessitated advanced telecommunications networks. Not surprisingly, there was no money provided to meet these increasing mandates. So, the legislature came up with the idea of letting schools sell excess capacity to slightly soften the financial burden. To take this option away from schools after a decade will clearly hurt schools in your districts.

**7. SECTION 307 HAS WORKED WELL FOR MORE THAN A DECADE**

The current law works fine. There is no widespread problem, and if anyone claims there is, you should require them to back their claim up with actual, not theoretical, projects that exist and to identify who was harmed. People talk loosely about things they have heard, but most often when the facts are investigated, what they have heard is not so accurate.

We urge you to leave current Sec. 307(6) as it is. This will require you to amend H.B. 5237 to remove the changes proposed. We will work with the committee and its members to provide the amendments to do that at the appropriate time. Thank you..

Michigan House of Representatives  
Committee on Energy and Technology  
Comments on H.B. 5237, Section 307(6)

by

**John Sundstrom**  
**President of MiCTA**

October 5, 2005

Mr. Chairman and Members of the Committee:

Introduction and Background

I am an engineer and have worked in the computer and telecommunications industry since the 60's.

I installed the first fibre optic based voice and data system in University of Wisconsin history (in 1985). The new system saved enough money to recover the entire investment in 4 years. My work won an award from a national college business officers organization.

While serving as the Director of Information Technology at Grand Valley State University here in Michigan, I oversaw the building of communications networks that won us citations from Yahoo for the service we provided students. I served on State Telecommunications Committees in both Governor Blanchard's and Governor Engler's Administrations. Some of you may recall when the Michigan Public Service Commission fined Ameritech 20 million for overcharging ratepayer back in the late 90's. The MPSC decided to use some of the money to help schools get into technology advancement. Working with Ferris State, I oversaw the program development and grants administration of a portion of the fine money that was granted to west Michigan K-12 and community colleges to jump start their move into use of the internet and distance learning.

Now I am President of MiCTA ([www.micta.org](http://www.micta.org)) which is a consortium of thousands of schools, colleges, Universities and other non-profits across the country. MiCTA, which is based in Mt. Pleasant solicits bids for telecommunications services, software and other items on behalf of its members. MiCTA does not build private networks and generally advocates the purchase of telecommunications services from the private sector whenever possible. The MiCTA Board is staffed by volunteer members from Michigan's colleges and K-12 schools.

COMMENTS ON H.B. 5237, the MTA OF 2005:

1. The striking of current Section 307(6), which has been in place since 1995 and was re-enacted in 2000, is unwise. The substitution of the wording "After July 1, 2006, an institution shall not sell any excess capacity for purposes other than as allowed under this section" compounds the problems created and appears to abruptly shut off service of

many community cooperative projects. The reason why this will happen is found in the narrow definition in paragraph 3 of section 307, which defines for what purposes educational institutions may sell telecommunications services to just education purposes. Current law allows the temporary selling off of excess capacity for cost recovery as well.

2. Broadband development in the state --especially in rural areas not served by cable or telephone companies--could be held up at a time when Michigan is already behind other states and countries around the world. If an educational institution happens to own a little excess capacity that it currently is not using, why is it wrong to allow the use of the capacity for a few years to a private company or local unit of government to help them out, and help the school at the same time. For example Ottawa County's interactive video court system, which links courts in Hudsonville to the County jail in Grand Haven via some of Grand Haven school's fiber would not have happened if this new proposed prohibition had been in the law. I am sure the committee members will hear of other examples of low cost community networking in each of your own districts that would have been stopped if this provision had been written in previous versions of this law.

3. As I reflect on the development of the internet, almost all of the ideas and inventions came out of universities in their quest to link schools, research agencies and for profit companies together for advancing research and learning. Early work in pioneering the internet came out of work at the University of Michigan, Cal-Berkley, Merit Network and the Department of Defense. Many years after Michigan's Universities had been using the internet for research and collaboration, commercial telecommunications providers came along and declared they were now going to be in the broadband internet business.

4. In summary, you definitely should not send this bill forward with this harmful provision to schools in it. It has the potential to disrupt service in community's throughout the state and increase costs for those current users who will have to scramble to build or buy a replacement. Worse, it will likely stop contemplated projects. The best thing to do is to restore the provisions of Section 307 to current law, which already contains clear and adequate safeguards against any unfair competition with the private sector. This provision has served the citizens of the State well. Please leave it intact, and don't harm educational institutions.

Testimony for  
Michigan Telecommunications Act

Michigan House Of Representatives  
Committee on Energy and Technology

Eric M. Grandstaff  
Representing:  
MiCTA  
and  
North Central Michigan College

Mr. Chairman, Members of the Committee:

I am here representing the K-12 and Community College members of a large national organization known as MiCTA, formerly the Michigan Collegiate Telecommunications Association. We now have over 20,000 members in 49 states across the country.

MiCTA, a non-profit company, provides several technology service solutions from our private sector vendors, wherein we aggregate discounted telecommunications services pricing for our university, community college, K-12, governmental, medical, church, and other non-profit members. Our private sector vendors have included both local exchange carriers, International exchange carriers (such as Sprint and Qwest), and broadband providers (again such as Merit-MichNet, Sprint, Qwest, and others). Without exaggeration, we have saved our Michigan and national members--and, hence, their tax payers--millions of tax dollars in technology services.

Our purpose here today is to ask for the retention of language in the MTA, which if deleted, has severe consequences for the students our members in Michigan serve. We are talking about the intentional deletion of Section 307 (6) in the legislation being offered by Rep. Nofs. The deletion of 307 (6) also has severe budget implications for the State of Michigan education budget, and, too, will mean that state educational mandates will go unfulfilled.

As Chairman Nofs pointed out in a June 2005 guest editorial in the *Battle Creek Enquirer*, Michigan now finds itself last in the Nation in economic development. We would agree wholeheartedly with him that the state needs to provide incentives to create a competitive environment in the telecommunications industry.

Where we in MiCTA differ with him, is, again, in the deletion of Section 307 (6) language of the legislation now being offered by Rep. Nofs and his 17 co-sponsors. As your colleagues in the Michigan Senate saw fit to do, the MTA was sent out of Committee with Section 307 left intact.

Some sponsors of this bill have deleted section 307 (6) because they think that schools might compete unfairly with large mega-corporations by selling excess capacities of their telecommunication infrastructure.

Let us be clear about Section 307: Deleting this message will hurt Michigan education. No legislator who is a friend to education would ever pass such legislation. Let us retain 307 as is.

To hear that Michigan public educational institutions, by being allowed to sell a small portion of their excess network capacities are depriving those multi-billion dollar carriers of revenue, is ludicrous. ***It's akin to saying that local high schools shouldn't be allowed to hold Friday night football games because they deprive the NFL of revenue.***

Both SBC and Verizon are among America's most successful Fortune 500 companies; again, with billions of dollars in profits. Public statements that paint these two large local exchange carriers as poor victims of small school districts' conniving are simply absurd.

To illustrate: SBC is awash in cash, and, if allowed by the FCC and the SEC, could end up buying its former mother--"Ma Bell", better known as AT & T--a move incomprehensible just a couple of years ago. Similarly, Verizon is currently courting long distance carrier MCI as it prepares to add this International Carrier to its list of telecomm acquisitions.

Are these titans of American telecommunications, standard bearers of local exchange and intra-LATA long distance being edged out for pittance revenues by local school districts?!

Sounds like a bad plot for a "Movie of the Week".

All kidding aside: The point here is that these companies are not losing even minute amounts of money from Michigan schools selling excess capacities. It is interesting, however, that SBC finds it convenient to shrink from providing local exchange service to Michigan's Upper Peninsula when it finds it cannot derive what it would term significant revenue.

What little revenue IS being taken in by school districts, on the other hand, is going to defray the costs of operating such networks. Further, it would appear that language in the bill would ALSO prohibit the exchange of network peer sharing as this may constitute a "sale" of services. So, for example, if my community college, North Central, wanted to join to be a partner with my local Char-Em Intermediate School district on an existing network to provide Internet instructional services such as an Interactive video dual enrollment class, the ISD's exchange of such services may be construed--under this proposed Act before you--as an illegal sale of excess capacity.

Further, for the development of "community networks" now being deployed in other states by consortia involving schools, hospitals, local government, and the private sector, this legislation would leave only a single entity--a monopoly--as the only vendor from whom to purchase such services.

I ask you, is THIS a competitive environment? Is this the innovative legislation that will get Michigan's telecommunications sector moving again?

You want to hear about innovation? Let me elucidate:

Historically, school districts and community colleges HAD to build their own networks because the costs to have a local exchange carrier build that network was astronomically prohibitive and would have placed an on-going, ad perpetuum burden on local taxpayers. By paying off short-term bonds to finance such networks, districts became not only technologically-RESPONSIVE to students, but tax-RESPONSIBLE to their district.

These networks have had an unprecedented positive impact on students, parents, and the communities they serve. Homework assignments can be seen by parents by simply logging in to a district server--by the way, this is much to the chagrin of students who used to keep their parents in the dark until report card time.

Students with disabilities, and those without them can take online courses from home. Unheard of on-line information resources provided by school libraries are being accessed by students both in school and at home via these networks.

And, as I mentioned Interactive video earlier, this technology allows the teaching of curricula such as foreign language, advanced math and science, and other courses to students across several districts. The big winners are small districts and their students; districts that might not be able to afford those German, calculus, or advanced physics instructors.

Certainly, you could argue that these services could be facilitated by a network leased on time from a local exchange carrier. Certainly you could, but the costs of ownership would be five to ten times as high.

So, to construct such a network in the future, do you want local districts to send the local exchange carriers' increased bills for schools to the House of Representatives here in Lansing? How does another BILLION dollars in public school costs sound in these times of budget crises? How will schools otherwise fulfill the mandates sought by lawmakers, the Governor, and the State and Federal Departments of Education? We can't go back to the Stone Age. Be proud that your schools used good old fashion American innovation to solve problems and obstacles and come up with this unique way to better education in our State.

There are times when public sector projects are conceived for the good of the people as a whole: The Tennessee Valley Authority did what electrical companies did not have the vision to do in the 1930's and '40's. The Federal Interstate System of Highways started during the Eisenhower Administration funded the infrastructure for the pathways that cars built by Michigan companies travel upon.

And, universities (especially including the University of Michigan and Merit Network in Ann Arbor) and the U.S. Defense Department, along with the National Science Foundation developed this little thing you may have heard of called, "The Internet". Until its discovery by the private sector in the mid-1990's, Michigan colleges, universities, and schools connected themselves together as part of the Internet; there was no call or need for a carrier to run the fledgling "Internet".

Now we're working on an item called "I2--Internet 2" and our private sector and public sector partners include the State of Michigan, the Federal Government, Microsoft, Sprint, Qwest, Oracle, and many others. Talk about private sector investment, I2 is a feather in Michigan's cap and it is headquartered right in Ann Arbor.

School networks, such as the Calhoun Intermediate School Districts wide area network will be able to have cost-affordable broadband Internet access in its member districts. Representative Nofs and I attended Battle Creek Central High School (Class of 1971--Bearcats Go!), a district served by Calhoun ISD. Those districts can now share costs for access to resources and curriculum, costs that are substantially lower because a local exchange carrier ISN'T running the network.

By the way--it's important NOT to narrow the scope of competitive telecommunications to the two large local exchange carriers. There are MANY other private sector telecommunications and IT companies that are growing and WILL continue to grow and provide jobs within Michigan. Don't forget their sizeable contribution. They include:

- Fiber Optic cable network construction companies. These are the companies hired by local school districts and college and universities to construct and, often, maintain these networks. The majority of work by these companies, granted, is providing services and maintenance to corporate networks. There are dozens of these companies here in Michigan. Don't forget to count them as businesses who profit from public sector networking projects. Without such support from public sector projects, these companies might not even be around; SBC and Verizon would do their own networking construction.
- Rural local exchange carriers. Here's where, in my opinion, the REAL competition is taking place in Michigan. In addition to the huge telecommunications discounts I receive from my college's MiCTA Sprint long distance contracts, and from our Internet service discounts from Merit-MichNet, I saved (no Geico commercial here) my college 40% on local telephone service from a company called United Telcomm of Michigan (now known as UTMI.net). UTMI is a competitive local exchange carrier which owns its own switching hardware and actually provides low-cost local exchange, long distance, DSL, T-1-and-up broadband services. Scott Baldwin, President of UTMI understands what it's like going up against monopoly interests, but it hasn't, because of his hard work, deterred him from developing a solidly competitive business plan that's become a successful business. Many school districts will be moving to local exchange carriers such as UTMI, because we know we have an obligation to our taxpayers to save money wherever we can. Costs SHOULD be going down in telecommunications services, yet services from the two largest carriers in Michigan are the highest. You have to ask yourselves: "Why is that?"



When I began working in higher education, services that you attempted to buy from a carrier--services such as local network lines, special data services, heck, even FAX lines, were difficult for those carriers to provide. Special customized services were unheard of. Everything had to be on that "carrier's shelves". You couldn't even run your own telephone switch or PBX because the local exchange carrier had to do it for you. If it wasn't "on the shelf", they couldn't innovate to design such a service.

Fortunately, as both the private and public sectors have found, providing phone and other telecommunications isn't "Rocket Science" and schools and colleges, facing pressures from the State to reduce costs and fulfill mandates beginning in the 1980's figured out that costs could, in fact, be quite low if they ran those services themselves.

This is why in the mid- to late-1980's, and continuing through the 1990's, MiCTA began to negotiate on behalf of Michigan schools to have carriers bid (if SBC or Verizon would not negotiate to deliver services, then perhaps Sprint, AT & T, or Qwest would) to deliver low-cost services to our educational institutions. This is also when school districts and colleges developed networks that carriers couldn't deliver for a fair cost. To pay for the maintenance of these networks, schools were allow, through the Michigan Telecommunications Act, the right to sell excess capacities. This wasn't intended to compete with telco carriers because CLEAR limitations were set on what schools could sell. Schools simply sell a limited portion of their excess capacities for the purposes of:

- Providing low-cost network services to schools, colleges and universities, and public libraries;
- In many cases, selling capacity to local exchange carriers to get from one geographical area to another. Understand, local carriers were able to compete and provide services because of this provision to sell excess capacity.
- To pay for the costs of maintaining the network.

When Representative Nofs and I were kids, our parents were both teachers and worked for the same employer--the Battle Creek Public Schools. Mike--formalities aside--and I had a pretty good time growing up because our school district provided the best for our education. We had libraries that weren't considered competition for the local "Read-Mor" Bookstore; we had school camp at Clear Lake that wasn't considered competition for the for-profit camps; and, Mike, do you remember our school farms? I wonder if local farmers ever viewed our potatos and carrots that we grew as threatening to their right to make a living?

We have a big problem in our telco industry in Michigan. But, networks run by schools are not the problem. Innovations from the private and public sector are needed. Much development of this industry--particularly in networking--was developed by the public sector. Much innovation is occurring at the start-up entrepreneurial local exchange level. Don't punish the innovators and achievers in this industry, help us all to work together to spur this industry on in Michigan.

Again, please retain Section 307 as it is in the current law. Thank you for this opportunity and the Committee's time.

Mike, all of us from the BCCHS Class of '71 are proud of your achievement. Keep doing a good job.

Repectfully submitted,

Eric M. Grandstaff  
North Central Michigan College